

The Chairman, Ted Dziurman, called the Building Code Board of Appeals meeting to order at 8:30 A.M. on Wednesday, April 3, 2002.

PRESENT: Ted Dziurman  
Rick Kessler  
Bill Nelson  
Bill Need  
Frank Zuazo

ALSO PRESENT: Mark Stimac  
Ginny Norvell  
Pam Pasternak

**ITEM #1 – APPROVAL OF MINUTES OF MEETING OF MARCH 6, 2002.**

Motion by Nelson  
Supported by Zuazo

MOVED, to approve the minutes of the meeting of March 6, 2002 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

**ITEM #2 – VARIANCE REQUESTED. KEVIN BYRNES, 1759 MAPLELAWN, FISCHER BODY REFINISHING**, for relief of Chapter 78 to maintain a wall sign, which is 195 square feet in size.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 78 to maintain an existing wall sign that is 195 square feet in size. Chapter 78, Section 9.02.05, B limits the size of a wall sign to 100 square feet in size in the M-1 (Light Industrial) Zoning District. A variance for this sign was previously granted by City Council in March of 1987. Section 12.03 of Chapter 78 limits the duration of variances to a maximum period of fifteen (15) years. This variance has now expired, and petitioner is appearing before this Board seeking a new variance.

Mr. Kevin Byrnes was present and stated that the sign has been in existence for the past fifteen (15) years and nothing on it has changed. Mr. Byrnes also stated that their business is setback 600' from the road and the sign allows them to advertise their business.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written objections or approvals on file.

Motion by Need  
Supported by Nelson

**ITEM #2- con't.**

MOVED, to grant Kevin Byrnes, 1759 Maplelawn, Fischer Body Refinishing, relief of Chapter 78 to maintain a wall sign, which is 195 square feet in size.

- Variance is not contrary to public interest.
- Variance will remain in effect for a period up to fifteen (15) years, until April 2017.
- There are no complaints or objections on file.

Yeas: All – 5

MOTION TO GRANT VARIANCE FOR A PERIOD OF FIFTEEN (15) YEARS CARRIED

**ITEM #3 – VARIANCE REQUESTED. CHARLES MILLER, REPRESENTATIVE FOR OAKLAND MALL, 268-394 JOHN R. – OAKLAND PLAZA,** for relief of Chapter 78 to add a 21 square foot panel to each of two existing ground signs.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 78 to add a 21 square foot panel to each of two existing signs. The additional panel would result in a total size of 219 square feet for each sign. Chapter 78, Section 9.02.04, permits one ground sign up to 200 square feet in size. Previous action by this board has allowed the signs to be placed 7.5' from the front property line where a minimum setback of 30' would be required for signs this size.

Mr. Douglas Mossman, owner of this property, Mr. Chas Miller, representative of Oakland Mall, Mr. Terry Keros, owner of Kerby Coney Island, and Mr. Steven Lin, owner of Super Steak were present. Mr. Mossman stated that the two (2) original pylon signs were installed in 1981 and replaced a year ago. Due to the fact that these restaurants are located inside of the strip mall they need to have more visibility.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Mr. Need asked if the present sign could be re-worked in some way to include these restaurants and Mr. Mossman stated that the three (3) major tenants had negotiated for sign panels and this was part of their lease. Mr. Mossman indicated that at that time the parameters were set.

Mr. Nelson asked what would happen if a third restaurant wanted to come into this center and Mr. Mossman stated that they would be told at the beginning that there was not any other signage available.

Mr. Keros, owner of Kerby Coney Island stated that since the pylon sign was changed, last year deleting his business name, his business has suffered by as much as 20%.

**ITEM #3 – con't.**

Mr. Need expressed concern regarding another restaurant coming into the mall, or even the possibility of another business coming in, that would want their name on the sign. Mr. Mossman stated that these tenants could not come to this Board unless signage was a part of their lease agreement, and he indicated that they would make it clear to any future tenants that this was not an option. Mr. Need stated that the City does not have any control over future leases and believes that by granting this variance it may set a precedent.

Mr. Zuazo asked what would happen if one or the other of the restaurants closed and Mr. Mossman stated that they would probably put the new business name on the sign.

Mr. Need asked what would happen if one of the restaurants left and a different type of business came in. Mr. Stimac explained that the Ordinance is silent to the language permitted on the sign. Mr. Stimac also stated that it may be possible to stipulate that the signs are for restaurants only if it can be shown that there is a unique requirement that applies only to restaurants. Mr. Need asked what would happen if another restaurant were to come in and wanted their name put on the sign and Mr. Stimac stated that another variance would be required. Mr. Stimac also indicated if the present sign were re-worked to include an extra name, a variance would not be required.

Mr. Zuazo asked how many tenants were in this strip mall and Mr. Mossman stated that there are between 18 and 20. Mr. Zuazo then clarified that the existing sign has only three (3) names and the proposed sign will have five (5) names. Mr. Zuazo also asked what would happen if the other tenants asked for additional signage and Mr. Mossman said that they would inform them that the City would not allow for extra signage as they are now at the limit.

Mr. Nelson asked if any other signs were permitted and Ms. Norvell stated that under the Sign Ordinance no other signs are permitted.

Motion by Need

Supported by Kessler

MOVED, to deny the request of Charles Miller, 268-294 John R. – Oakland Plaza for relief of Chapter 78 to add a 21 square foot panel to each of two existing ground signs.

- Variance could set a precedent.
- Variance is contrary to public interest.

Yeas: 2 – Need, Kessler

Nays: 3 – Zuazo, Nelson, Dziurman

MOTION TO DENY FAILS

**ITEM #3 – con't.**

Mr. Zuazo asked if there were any plans to come to the Board for any future additions and Mr. Mossman stated that they had only been to the Board twice in 20 years and he did not have any plans for future expansion.

Motion by Zuazo

Supported by Nelson

MOVED, to grant Charles Miller, representative of Oakland Mall, 268-394 John R. – Oakland Plaza, relief of Chapter 78 to add a 21 square foot panel to each of two existing ground signs.

- Variance is not contrary to public interest.
- Variance request is minimal.
- Variance will not have an adverse effect on surrounding property.

Yeas: 3 – Nelson, Dziurman, Zuazo

Nays: 2 – Need, Kessler

MOTION TO GRANT REQUEST CARRIED

**ITEM #4 – VARIANCE REQUESTED. HARRINGTON PARK DEVELOPMENT LLC, HARRINGTON PARK CONDOMINIUMS**, for relief of Chapter 83 to construct a subdivision entrance wall/fence at the proposed Harrington Park Condominiums.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to construct a subdivision entrance wall/fence at the proposed Harrington Park Condominiums. The site plan submitted indicates the construction of a 6' high masonry/aluminum subdivision entrance wall in the front setbacks along West Long Lake Road and Harrington Park Drive. Chapter 83 limits the height of fences and entrance walls in front setbacks to 30" in height in the R-1T Zoning District.

Mr. Joe Maniaci of Harrington Park was present and stated that they wished to enhance the beauty of the project by creating a decorative entrance. Mr. Maniaci also stated that due to concerns about the location of the driveways for units 1 and 34, they planned to move them to another location.

The Chairman opened the Public Hearing.

Ms. Shirley O'Bryan, 189 Fabius Drive, and Ms. Jeanne Stenback, 201 Fabius Drive, were present and stated that their property backs up to this area and are concerned because there was not going to be a wall which would butt up to their property. Ms. O'Bryan feels that a wall should be provided along Long Lake also. Mr. Stimac explained that according to the Zoning Ordinance when a residential development butts up to single family residential zoned property, in this case, R-1T backing up to

**ITEM #4 – con't.**

R-1B, a screen wall is not required unless there is a parking area. The actual units do not require screening.

Mr. Maniaci indicated that they plan to add quite a bit of landscaping to this area, which he thought would act as a buffer.

Mr. Dziurman pointed out that this variance request was only for the entrance wall and that as Mr. Stimac had explained a wall at the rear of the property is not required. Ms. O'Bryan stated that they had been told that this was the only meeting that was going to discuss any type of wall and she wanted to make sure that the Board knew that both herself and Ms. Stenback were opposed.

No one else wished to be heard and the Public Hearing was closed.

There is one written approval on file. There are no written objections on file.

Mr. Need stated that although the drawings indicated that there was 18' between the fence and the buildings, he did not believe that that much space was provided and did not see how all the plantings indicated could be put in. Mr. Maniaci stated that he thought that the architect had indicated an excessive amount of plantings. Mr. Need then asked what the plan was for the front of the fence and Mr. Maniaci stated that he thought the plantings indicated were the plantings that would be placed there.

Mr. Dziurman asked if because of the apparent enhancement of landscaping on the drawing if everything else on the drawing was enhanced. Mr. Need expressed concern over the fact that he did not feel this drawing was an accurate representation of the proposed scope of work. Mr. Need also stated that he does not believe that this aluminum fence would act as a buffer for the noise, but rather as a conductor.

Motion by Need  
Supported by Nelson

MOVED, to table the request of Harrington Park Development, LLC for relief of Chapter 83 to construct a 6' high masonry/aluminum subdivision entrance wall in the front setbacks along West Long Lake Road and Harrington Park Drive.

- Tabling will allow the petitioner to bring in a detailed plan indicating the proposed wall and a realistic landscape plan.

Yeas: All – 5

MOTION TO TABLE THE REQUEST OF HARRINGTON PARK DEVELOPMENT, LLC  
UNTIL THE MEETING OF MAY 1, 2002 CARRIED

**OTHER BUSINESS**

**ITEM #5 – VARIANCE REQUESTED. DAVID DONNELLON, 1477 JOHN R.,** for relief of Section 703.2.1.2, Group A-2 of the 2000 Michigan Construction Code.

Mr. Stimac explained that the petitioner is the Architect representing the owner of Mario's Restaurant. The owner is proposing to construct a 460 square foot covered patio addition to the existing building. This will bring the gross area of the building to 5,860 square feet. The size of the fire area of the building (inside of wall to inside of wall) is 5,560 square feet. In addition, the owner has submitted to have dancing added to his Liquor License.

This building was originally reviewed and approved under the provisions of the BOCA Code that classified restaurants as a Use Group A-3. Under that classification an automatic sprinkler system was required only on buildings in excess of 12,000 square feet. A separate classification of A-2 was reserved for nightclubs.

Under the provisions of the 2000 Michigan Building Code, all restaurants are now classified as Use Group A-2. Section 903.2.1.2 of the MBC requires automatic sprinkler systems in all A-2 Use Groups that have a fire area in excess of 5000 square feet. The petitioner is seeking relief of the automatic fire sprinkler system based upon a series of existing and upgraded conditions to the building that he believes provides an equivalent level of safety.

Mr. Donnellon stated that the new Code has taken the area requirement from 12,000 square feet to 5,000 square feet and believes that they can bring it up to code by making structural changes that will increase their fire rating. Mr. Donnellon said that they plan to make two (2) exits out of the dining room as well as two (2) exits out of the kitchen. Mr. Donnellon also said that since most fires begin in the kitchen they plan to increase the fire rating in this area. Mr. Donnellon stated that they plan on replacing the existing wood doors and frames with metal doors that latch; between the kitchen and dining area and also that they would make other equivalent improvements, which will also increase the fire rating.

Mr. Nelson stated that he believes it is difficult to separate the kitchen and dining areas and also that he has seen where the latching doors create more problems. Mr. Donnellon indicated that the wall between the kitchen and dining room is dry walled as well as covered with ceramic tile on the kitchen side. Mr. Donnellon stated that the wall is all the way to the ceiling, which is also covered with dry wall. Mr. Donnellon also said that they plan to add fire dampers to the openings in the wall. Mr. Kessler stated that in order for this to be a rated wall it has to go to the roofline and cannot envelope the kitchen.

Mr. Nelson stated that at one time there was a mezzanine above the kitchen and asked if Mr. Donnellon was aware if it still existed. Mr. Donnellon stated that he was not aware

**ITEM #5 – con't.**

of a mezzanine. Mr. Nelson also said that when you try to make changes to a 30 – 40 year old building, they may not work. Mr. Nelson also asked if a fire alarm were required and Mr. Stimac stated that a manual fire alarm is required in a building which has over 300 occupants. Mr. Kessler stated that due to the fact that some of the areas are considered to be compartment size he believes that these should be taken into consideration when discussing the 5000 square foot requirement.

Motion by Nelson

Supported by Kessler

MOVED, to grant David Donnellon, 1477 John R., relief of Section 703.2.1.2, Group A-2 of the 2000 Michigan Construction Code regarding an automatic sprinkler system.

- Code compliant fire alarm system required.
- Doors are to be solid core doors and delete latching.
- Determine if mezzanine exists and if so, provide separation of the mezzanine area from the dining room.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

The Building Code Board of Appeals adjourned at 9:38 A.M.

MS/pp